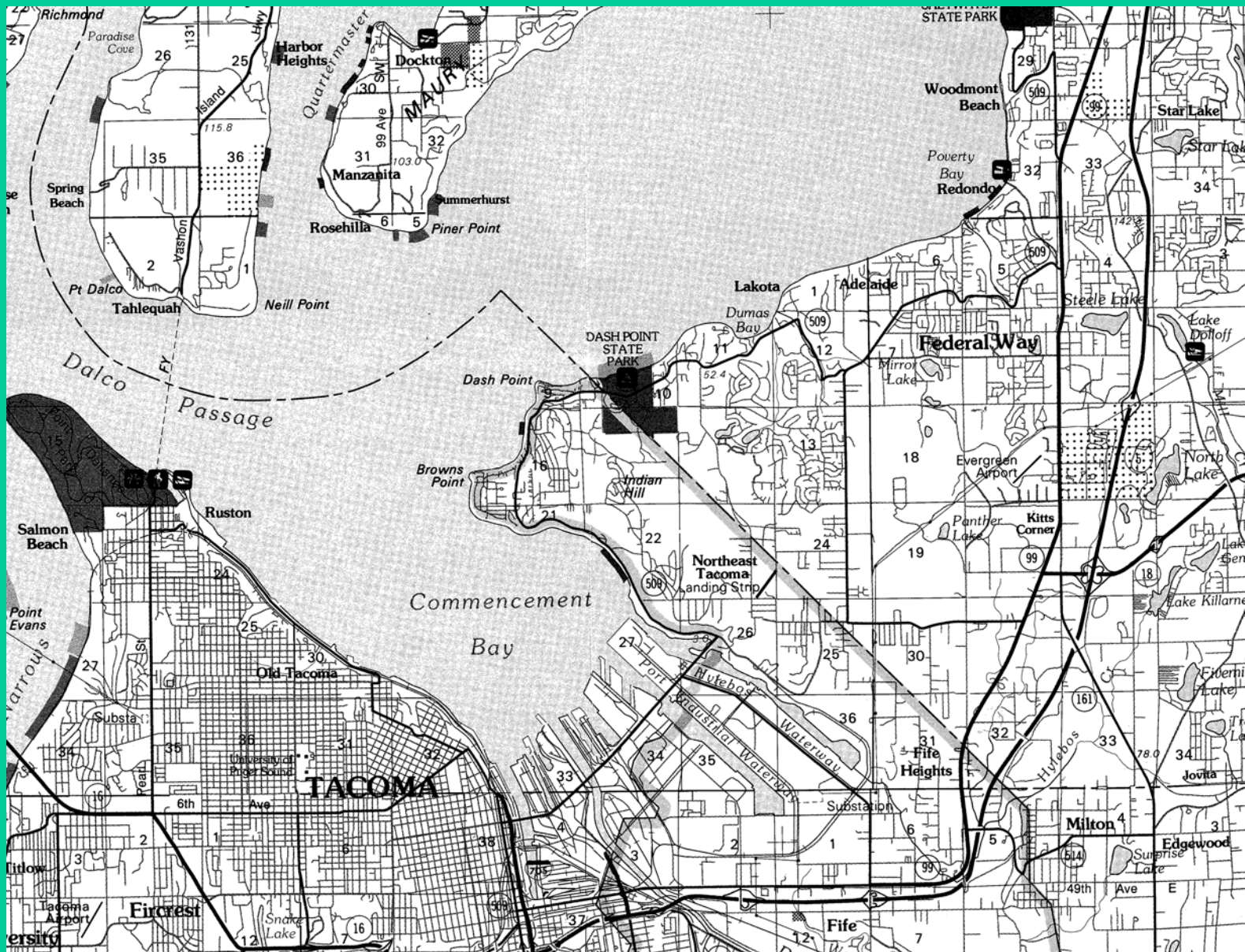


A Most Uncooperative Assessment

Commencement Bay NRDA and Settling Hylebos Waterway Claims A Trustee Perspective

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Cooperation to Confrontation

- 1991 – 1993 Two rounds of PRP Cooperation through Funding and Participation Agreements
- 1994 Marriage on the rocks; PRPs decline further participation
- 1995 – 1998 Cold war, occasional skirmishes, parallel play in the sandbox
- 1998 HCC-5 settlement “negotiations”

All is not lost?

- Some parties urge Trustees to enter into separate negotiations

The Problem – Settling Individual Hylebos Waterway Claims

- 38 Sites
- 78 Parties
- 41 Opposing Attorneys . . . so far
- Remedial contribution lawsuits
- Confidential remedial allocation by subset of PRPs
- Failed group NRDA settlement negotiations
- Inter-attorney personality clashes

More recently....

- Failed remedial negotiations – EPA issues UAOs
- Kaiser and USG file for Chapter 11 protection
- ASARCO teeters on the brink

Hylebos Settlement Strategy

- The problem:
 - Settling out individual parties after Montrose
 - Remedial allocation did not address NRD liability, lacked consensus support
 - Near-certain legal challenge by non-settlers
- The solution:
 - Independent allocation
 - Public review and comment process

Public Review and Comment Process - What

- The Draft Report
 - Hard copy
 - CD-ROM
 - Repositories
 - Web site download
- Allocation Supporting Documents
 - CD-ROM
 - Repositories

Public Review and Comment Process - How

- Pre-review notification and mailing list solicitation
- Mailing of report/CD-ROMs
- Newspaper display ad
- Web site notice
- Public briefing
- Fact sheets
- Allocation report ‘reviewers guide’
- Technical briefing

The Hylebos Proposal – A Novel Package

- Restoration-scaled approach – not ‘how much money’ but ‘how much habitat’
- *Independent, neutral liability allocation*
- *Public and PRP review and comment*
- *“Restoration banking” – enabling project sponsor to sell shares in large restoration project*

Current Status

- Cash-out settlement agreement with one party – consent decree drafting
- Near-final consent decree with Atofina Chemicals – *“restoration banking” becoming a reality*
- Project proposals received from several large parties
- Active discussions with federal PRPs
- PRP subgroup forms, hires mediator to handle intra-site allocation